

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Developing a Unified Inter-carrier)	CC Docket No. 01-92
Compensation Regime)	

COMMENTS OF MINNESOTA INDEPENDENT COALITION

The following Comments are submitted by the Minnesota Independent Coalition (“MIC”)¹ in response to the Commission’s November 8, 2006 Public Notice.² The MIC supports the proposal regarding the phantom traffic interim process and call detail records contained in the written ex parte filed November 6, 2006 by the Supporters of the Missoula Plan (the “Interim Plan”). The Interim Plan provides feasible and much needed steps to address the worsening problems posed by misidentified or unidentified traffic being delivered to transiting carriers by third-party service providers.

A number of Incumbent Local Exchange Carriers (“ILECs”) in Minnesota, including MIC members, have developed and implemented contractual processes to address the problems posed by phantom traffic. The development and implementation of these processes were facilitated by dispute resolution procedures available under the authority of the Minnesota Public Utilities Commission. The MIC’s comments are informed by that experience and are directed, in

¹ The MIC is an unincorporated association of over seventy-five small, Incumbent Local Exchange Carriers (“ILECs”) providing local exchange service to primarily rural areas in Minnesota. MIC members average approximately 4,800 access lines, although half of the MIC members have fewer than 1,800 access lines. The average number of access lines per exchange is approximately 1,100, with half having less than 600 access lines.

² Public Notice Released November 8, 2006, DA 06-2294.

part, to achieving the benefits of the Interim Plan without sacrificing the opportunity for carriers to establish and maintain appropriate processes and contracts to address these issues.

1. *Relation of Interim Plan Provisions and Contractual Provisions.* The MIC submits that the Interim Plan should, in general, provide default solutions that should not override other contractual arrangements. Specifically, to the extent that carriers have developed solutions and entered into contractual arrangements to resolve the issues addressed in the Interim Plan, the terms of the contracts should remain in effect and maintain priority over default solutions. Such an approach would preserve the value of these contractual arrangements, and be consistent with the Commission's preference for contractual arrangements.³ Some specific issues that should be subject to this prioritization of remedies are discussed below.

2. *Scope of Traffic Covered.* The scope of traffic that is covered by the Interim Plan is defined in Section III(A), and the obligations to distribute call detail records are set forth in Section III(B). The limitation to "traffic involving more than two carriers in a call path" is critical to avoid creation additional requirements and costs that would serve no useful purpose. The Interim Plan should also allow all affected carriers to waive creation and distribution of record requirements of the Interim Plan for certain types of traffic *if* all of the affected the carriers agree that there is no need for coverage of certain types of traffic. For example, creation and distribution of call detail records would not be necessary for existing bill and keep Extended Area Service arrangements, or for bill and keep arrangements relating to de minimis levels of traffic or for balanced levels of originating and terminating traffic.

³ See, e.g. Developing a Unified Inter-carrier Compensation Regime, T-Mobile, et. al., Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs, Declaratory Ruling and Report and Order, 200 FCC Rcd 4855, CC Docket No. 01-92 (rel. Feb. 24, 2005) at ¶ 14.

3. *Call Detail Records Subject to Charges.* Section III(F) addresses the charges that may be imposed for the creation and distribution of records would be covered by charges for Tandem Transit Service under the Missoula Plan. Section III(F) provides for new charges during the interim period.

Charges for creation and distribution of records should be limited to records: (i) that have been requested by other carriers; and (ii) that are useful to such other carriers in connection with a billing process. For example, it is possible that a Transit Provider ("Transit Provider") may be unable, or may choose not, to separate records that within the Scope of Traffic Covered from records for traffic outside of that scope, with the result being that many more records are produced and distributed than are within the Interim Plan scope or can be used by carriers receiving such records. It would be highly inappropriate for the Transit Provider to impose charges on other carriers for useless records simply because the Transit Provider was unwilling or unable to separate records for traffic within the Scope of Traffic Covered from other records. The Interim Plan should be clarified to address this issue.

In addition, the term "call records previously not provided" must be clarified so that unintended and unjustified changes in practice do not occur. The Interim Plan should be made clear that Transit Providers may not begin charging for types of records now provided without charge. For example, a Transit Provider may now only be switching toll traffic, and may not be charging the terminating carrier(s) for such records. If this Transit Provider started transiting *other types* of local interconnect traffic, the Transit Provider should not be allowed to charge for records previously delivered without charge.

Further, a Transit Provider should not be allowed to begin imposing charges for records if the Transit Provider provides the same type of records to other carriers without charge. For

example, if a Transit Provider is providing CMRS or local interconnect records to CLECs without separate charge, the Transit Provider should not be allowed to impose charges on ILECs for the same categories of records. The Transit Providers should not be allowed to discriminate between categories of carriers in regards to charges for call detail records.

4. *Rate Levels for Call Detail Records.* The most appropriate approach would be for the costs of providing terminating records to be recovered in the same manner as proposed in the Missoula Plan (as part of the cost of providing the tandem switching service). To the extent that any charges are to be imposed, the following provisions should be implemented.

Section III(F)(2)(c) of the Interim Plan provides for a charge of \$0.0025 for call detail records not previously provided. That level of charge appears to be excessive in light of: (i) current levels of charges for other call detail records; and (ii) the fact that newly provided call detail records would be incremental to other records already provided. Instead of authorizing an increased level of charges, the rates for call detail records should be the lowest of: (i) the current rates applicable to other comparable categories of call detail records; (ii) the incremental cost of providing the additional records; or (iii) \$0.0025.

5. *Carrier Notification.* The provisions of Appendix A of the Interim Plan relating to carrier notification are generally appropriate. The engagement of a independent third-party administrator would be appropriate. The appointment of an independent third-party administrator would standardize and facilitate the notice process and to buffer and thus limit avoidable disputes between parties.

6. *Dispute Resolution.* The occurrence of disputes between participants in the Interim Plan is quite possible. Some disputes may be dependent on local circumstances that may reflect local practices and prior accommodation of state commission decisions, such as

provisions for expanded local calling areas and local calling plans. To facilitate resolution of such disputes, the Commission should authorize State Commissions to resolve issues arising under the Interim Plan.

The MIC appreciates the opportunity to present Comments relating to the very significant issues relating to phantom traffic and the Commission's recognition that an interim solution to these issues is needed.

Dated: December 7, 2006

Respectfully submitted

Minnesota Independent Coalition

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